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Transmitted via Email

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MINNESOTA BULLETIN NO. 180-8-5

SUBJECT: N/HEL DETERMINATIONS AND COMPLIANCE PLAN REQUIREMENTS

Purpose. To issue field offices a reminder on the guidance for N/HEL determinations and compliance plan requirements.

Expiration Date. September 30, 2008.

With crop prices rising to near record levels, producer interest in breaking out land for additional production is also expected to increase. In addition, October 1, 2008 will see the next round of expiring CRP contracts that could possibly be returned to annual crop production. For both of these situations NRCS is responsible to work with landowners and FSA to make N/HEL determinations and develop conservation compliance plans.

**N/HEL Determinations:**

- All N/HEL determinations are made using the HEL soil map list contained in the FOTG on January 1, 1990. This “frozen” list could have been updated after this date due to new soil mapping. The most current list of HEL soils is in the eFOTG. This is the official list to be used for all HEL issues. Consult your ARC and ARSS if you have questions concerning the correct list to use.
- All N/HEL determinations are made using historic USLE or WEQ based factors.
- The N/HEL determinations for bringing a new area into production are done at the request of a producer who has checked question #9 “yes” on the AD-1026 form. FSA will supply a copy of these requests to NRCS along with a map and acreage for the “field” or area to be brought into production.
- N/HEL determinations are made on a “field” basis. USDA will consider all new areas brought into production as a new “field.” For these fields the determination is made only on the area to be brought into production, not a larger reconfigured field.
- All expiring CRP fields should have already had N/HEL determinations made. FSA should not need to refer these AD-1026s to NRCS for new N/HEL determinations on expiring CRP fields.
- The procedures for making N/HEL determinations can be found in the NFSAM Part 511.11.
- If the producer wants to combine either an expiring CRP field or a new production area “field” with an existing field, follow the guidance in NFSAM Part 511.12. Make sure that your FSA office is following the information and examples contained in the joint FSA/NRCS FSA Manual Amendment #5 that was issued on June 4, 2007. In many cases field combinations do not require a new or revised N/HEL determination by NRCS.



- All new N/HEL determinations are recorded and distributed using form CPA-026. All CPA-026s are sent via certified mail or hand delivered, no exceptions, with a copy given to FSA.

**N/HEL – Exemptions (see NFSAM 520.14):**

Part 520.14 of the NFSAM Manual lists “exemptions” to N/HEL determinations and HEL compliance. This bulletin replaces previously released information on this topic distributed in Conservation Compliance Note #31. For “small areas,” as defined below, use the following guidance:

**Part 520.14 a. Small Area Exemption:**

The small area "exemption" to N/HEL determinations applies to abandoned farmsteads, areas around filled or capped wells, rock piles, trees or brush within or adjacent to existing fields that are converted to cropland. When these areas are 5 acres in size or less NRCS will not make or issue a new or revised N/HEL determination. Any area 5 acres in size or greater will have a N/HEL determination made following normal procedures.

When these small areas are brought into production and are adjacent to any HEL field they must be included in the existing conservation compliance plan for that field and meet the level of treatment required for the adjacent HEL field. When they are adjacent to only NHEL fields no compliance plan is required. Producers may not circumvent this "exemption" by repeatedly breaking up and converting small areas less than 5 acres in size.

Minnesota will be issuing this guidance in an Amendment to the NFSAM along with a template letter that will be used to notify the producer and FSA.

**Compliance Plan Requirements:**

- All compliance planning is done using RUSLE 2 or the management period method of WEQ.
- Fields (areas) where new production is planned that are determined to be NHEL do not require a conservation compliance plan.
- Fields (areas) where new production is planned that are determined to be HEL are also considered to be “Sodbusted” when NRCS determines that the area was or will be converted from native vegetation after December 23, 1985.
- For HEL sodbusted acres, the participant is required to develop and implement a conservation plan that controls sheet and rill or wind soil erosion to “T.”
- For HEL areas where new production is planned that are not “sodbusted” (because the area is comprised on non-native vegetation) the participant is required to develop and implement a conservation compliance plan that controls sheet and rill or wind soil erosion to twice the T level (2T).
- All HEL conservation systems must also include treatment required to control ephemeral and classic gully erosion.
- All expiring CRP fields (acres) have a crop history prior to December 23, 1985 and are never considered sodbusted.

- For all new production and expiring CRP acres determined to be HEL field staff have the ability to develop conservation compliance plans that schedule conservation practices as follows:
  1. Construction of any structural conservation practices (e.g., terraces, grassed waterways, grade control structures) must be implemented in the first year.
  2. Required residue levels must be achieved by the beginning (at the time of planting the crop) of the second year.
  3. For long term rotations, the most conserving crop must be planted by the beginning of the third year.

Questions on this bulletin may be directed to your Area Resource Conservationist.

|       /s/      

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